THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION NO.4640 OF 1996

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DATED: 16-09-2005.

Between:

M/s. Walden Booklinks Pvt.Ltd.,

101, Shibas Glenn, Kapadia Lane,

Somajiguda, Hyderabad – 500 482

Rep. By its Chief Executive **... Petitioner**

And

1. The State of Andhra Pradesh,

rep.by the Secretary, Revenue

Department, Secretariat,

Hyderabad and two others **... Respondents**

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ORDER:

During the course of inspection of the premises of the petitioner by the audit party of the Stamps Department, they came across a lease deed for 11 months, and so 3rd respondent, by invoking the power vested in him by Section 73 of the Indian Stamp Act as amended in Andhra Pradesh, issued a show cause cum demand notice dated 31-10-1995 informing the petitioner that an amount of Rs. 23,400/- is provisionally assessed as stamp duty and penalty on the said document, and so, petitioner paid the said amount through a cheque on 21-11-1995. Thereafter, through a notice dated 02-02-1996 petitioner was demanded to pay an amount of

Rs.41,760/- as deficit stamp duty and penalty on the said document. Questioning the said levy and demand, and the earlier notice directing it to pay the amount of Rs.23,400/-, petitioner filed this writ petition.

Heard both sides.

Since the apex court in "***DISTRICT REGISTRAR AND COLLECTOR, HYDERABAD AND ANOTHER v. CANARA BANK ETC.*** struck down the Andhra Pradesh Amendment to Section 73 of the Act and the rules made there under vesting the power of inspection and impounding documents by the department officials as violative of Articles 14 and 21 and vice of excessive delegation, and since the document in question was not produced before any public authority but was found during the course of inspection by the audit party of the premises of the petitioner, the notice impugned is liable to be and hence quashed.

Accordingly, rule nisi is made absolute and the writ petition is allowed with costs and consequently, respondents are directed to refund the amount of Rs. 23,400/- collected from the petitioner in pursuance of the earlier notice No.1008/95/Section 73 dated
31-10-1995. The petition is ordered accordingly.

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C.Y.SOMAYAJULU, J.

Dated: 16..09..2005.

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